

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4605 of 15 August, 2019

LEGAL NOTICE NO. 164 OF 2019

SANCTIONS ACT 2019
SANCTIONS REGULATIONS 2019
SPECIFIED SHIP NOTICE (LN. 2019/132) RELATING TO THE M.V.
GRACE 1 (IMO: 9116412)
NOTICE OF REVOCATION OF SPECIFICATION OF SHIP

In exercise of the powers conferred upon me by sections 38 and 39 of the Sanctions Act 2019 and by regulation 5 of the Sanctions Regulations 2019, I hereby revoke LN. 132 of 2019 in respect of the following ship-

VESSEL NAME	VESSEL DESCRIPTION
Grace 1	IMO:9116412 MMSI: 355271000 Callsign: 3EYE2

REASONING

Background

1. By Legal Notice LN. 2019/132 (the “**Specification Notice**”) made pursuant to regulation 5 of the Sanctions Regulations 2019 (the “**Sanctions Regulations**”), I specified the M.V. Grace (imo: 9116412, MMSI: 355271000, Callsign: 3EYE2) (the “**Vessel**”) as a Specified Ship (“the “**Specification**”). As a consequence of the Specification, and as required by regulation 6(1)(a) of the Sanctions Regulations, the Vessel was detained, by the Gibraltar Port Authority (with the assistance of other agencies), at 02.01 hours on 4 July 2019 upon her arrival in British Gibraltar Territorial Waters into which the Vessel had freely navigated by prior arrangement with a Gibraltar ship agent from whom provisions and ships’ spares were procured by the Vessel.
2. On 5 July 2019, and again on 19 July 2019, the Chief Justice of the Supreme Court of Gibraltar ordered, pursuant to regulation 10 of the Sanctions Regulations, that the Vessel continue to be detained on the grounds that the Court was satisfied that there are reasonable grounds for suspecting that the detention of the Vessel was required for the purposes of complying with Council Regulation (EU) No 36/2012

of 18 January 2012 concerning restrictive measures in view of the situation in Syria (the “**EU Regulation**”).

3. Article 14.2 of the EU Regulation prohibits that any economic resources shall be made available, directly or indirectly, to or for the benefit of the natural or legal persons, entities or bodies listed in Annex II and IIa of the EU Regulation.
4. The cargo aboard the Vessel, comprising crude oil, constitutes an economic resource for the purpose of the EU Regulation.
5. The Sanctions Act 2019 (the “**Sanctions Act**”), the Sanctions Regulations and EU law binding on Her Majesty’s Government of Gibraltar (“**HMGoG**”) require HMGoG to enforce the EU Regulation.
6. The Baniyas Refinery Company a.k.a “Baniyas”, “Banyas”, and/or “The Homs Refinery Company”, a.k.a. “Hims”, “General Company for Homs Refinery” are the owners and operators of the only crude oil refineries on the coast of Syria (namely, the Baniyas Oil Refinery and the Homs Oil Refinery, respectively), and they are both entities listed in Part B of Annex II of the EU Regulation.
7. The documentary evidence available to the Gibraltar authorities shows that, at the time of its Specification and detention, the Vessel’s port of destination and discharge of cargo was in Syria, specifically the port of Baniyas. For example:
 - 7.1 The **Vessel’s Passage Plan** plotted 38 specific “waypoints” for the route from the Persian Gulf (the “**Gulf**”) to Syria with final destination coordinates for a position off the coast of Baniyas, Syria.
 - 7.2 The **Vessel’s navigation charts** showed a fully plotted route for the voyage from the Gulf to Baniyas, Syria.
 - 7.3 The **Vessel’s electronic voyage summary** states that its destination was Syria.
 - 7.4 The **Vessel’s Cargo Loading Plan** states that its destination was Syria.
 - 7.5 The **Vessel’s Daily (Noon) Navigation Reports** state that its destination was Syria.
 - 7.6 The **Vessel’s “Underkeel Clearance Calculation”** stated the Vessel’s final destination port as Baniyas, Syria.
 - 7.7 The **Vessel’s Integrated Management System Manual** contains 15 Evaluation reports in respect of 15 safety drills and training of the crew carried out at sea between 18 May 2019 and 15 June 2019 while the Vessel was en route to Gibraltar. These documents each separately record that the vessel was bound for Syria.
 - 7.8 The **Vessel’s Passage Plan** for her return voyage shows a plotted course from a position off the coast of Baniyas, Syria to the Gulf.

7.9 Emails between the Captain of the Vessel and the Vessel's managing agents in respect of and/or during this voyage, dated between 14 April 2019 and 2 July 2019 show:

- (i) The Captain of the Vessel requesting two months of provisions in view of the long voyage "to Syria".
- (ii) The Captain ordering permits and charts for the return journey from "Syria to the Persian Gulf via Suez".
- (iii) The Captain asking (just two days before the Vessel's detention) whether he was to land the ship's waste "in Gibraltar *or in Syria*". And the Managing Agent replying that it was to be landed "only at discharge port". This demonstrates that the discharge port was in Syria.
- (iv) The Captain requesting (just two days before the Vessel's detention) for certain stores to be arranged "at Syria", and the Managing Agent acknowledging in reply that the stores would be supplied "at your discharge port." This demonstrates that both the destination and discharge ports were in Syria.

7.10 External communications by crew members, as the Vessel approached Gibraltar, stated that the Vessel's destination for discharge of the cargo was Syria.

7.11 An internal Vessel email dated 2 July 2019 (from its bridge email account to its administration email account) is captioned "ETA – Cyprus/Syria" and also attached an Estimated Time of Arrival and Speed Calculation from Gibraltar to Syria.

7.12 There were no plotted navigational charts, passage plans, plotted courses or underkeel clearance calculations on board the Vessel relating to a destination other than Syria.

- 8. The refineries at the ports of Baniyas and Homs are the only places in Syria able to accept a discharge of the cargo aboard the Vessel, or indeed to have a possible use for it.
- 9. Accordingly, on the basis of the applicable legal standard, and after consultation with HM Attorney General for Gibraltar, and notwithstanding statements made by the Islamic Republic of Iran that the Vessel was never destined to an EU sanctioned entity, I am satisfied that the destination of the Vessel was, at the time of her Specification and detention, an entity listed in Part B of Annex II of the EU Regulation, and that the Vessel was thereby at that time involved in a breach of the EU Regulation, and that the grounds upon which I specified the Vessel have, accordingly, been sustained.

The request that the specification of the Vessel be revoked.

10. Section 39 (1) of the Sanctions Act provides that any person affected by the specification of a ship may request the Chief Minister to revoke a specification.
11. I am satisfied, upon sight of the relevant loading certificate and having met a Director of the relevant company in London, that the cargo aboard the Vessel, namely 2.1m barrels of Iranian Light Crude Oil, is the property of the state-owned National Iranian Oil Company. As a result, I consider that the Islamic Republic of Iran is a person or entity able to engage the rights provided for in Section 39(1) of the Sanctions Act.
12. Section 39 (3) of the Sanctions Act requires the Chief Minister, upon receipt of a request under subsection (1), to decide whether to revoke a specification or to take no action with respect to it. Where, at any time, the Chief Minister considers that the required conditions are not met in respect of the specification he must revoke the specification. Regulation 5(2) of the Sanctions Regulations also empowers the Chief Minister to revoke a notice issued under that regulation designating a ship as a Specified Ship.
13. The Islamic Republic of Iran has, on 5 August 2019, made a request to me that I should revoke the specification of the Vessel on the basis of certain undertakings formally provided by it, including in a meeting I held with the Iranian Embassy in London on 17 July 2019 and also in a document dated 29 July 2019, specifically, an undertaking that the destination of the Vessel will not be an entity that is subject to European Union sanctions (the **“Islamic Republic of Iran’s undertaking”**). A copy of the Islamic Republic of Iran’s documents of 5 August 2019 and of 29 July 2019, together with a cover letter from the Islamic Republic of Iran dated 13 August 2019 transmitting those documents to me, are annexed to this notice.
14. In light of the Islamic Republic of Iran’s undertaking, which I welcome and accept in good faith, and which, in my view, presents an important and significant change to the destination of the Vessel from that which is demonstrated by the evidence cited at paragraph 7 above, I consider that there are no longer reasonable grounds to suspect that the detention of the Vessel is required to ensure compliance with the EU Regulation.
15. Furthermore, since compliance with the EU Regulation has been enforced, HMGoG do not consider it to be in the public interest to seek to forfeit the Vessel or its cargo.
16. Accordingly, and for the reasons set out in paragraphs 13 and 14 above, I consider that the required conditions are no longer met in respect of the Specification of the Vessel.



Embassy of The Islamic Republic of Iran

In the Name of Almighty

No: 2181:98051804

Dear Sir,

The Embassy of the Islamic Republic of Iran in London has the honour to enclose herewith the copy of the two NVs of the Embassy which have been already sent to the Foreign and Commonwealth Office of the United Kingdom, for your kind consideration.

London, 13 Aug 2019

Mr. Fabian Picardo
Chief Minister of Gibraltar





سفارت جمهوری اسلامی ایران لندن

باسمه تعالی

شماره: ۲۱۸۱-۹۸۰۵۱۷۹۸

یادداشت*

سفارت جمهوری اسلامی ایران در لندن با اظهار تعارفات خود به وزارت امور خارجه و مشترک المنافع کشور پادشاهی بریتانیای کبیر و ایرلند شمالی و پیرو ملاقات مورخ ۲۶ تیرماه ۱۳۹۸ با آقای فابیان پیکاردو، سر وزیر جبل الطارق و آقای ریچارد مور، مدیر سیاسی وزارت خارجه بریتانیا احتراماً اشعار می دارد:

جمهوری اسلامی ایران توقیف غیرقانونی سوپر تانکر گریس ۱ را که حامل نفت ایران بوده بشدت محکوم می نماید و خواستار آزادی فوری آن می باشد.

همانگونه که جمهوری اسلامی ایران قبل از این هم اعلام کرده است مقصد سوپرتانکر گریس ۱ نهاد تحت تحریم اتحادیه اروپا نبوده و نخواهد بود. هر چند اعلام این مطلب هیچ خدشه ای بر این موضع اصولی حقوقی مورد پذیرش جهانی که تحریم های اتحادیه اروپا نمی تواند بر کشورهای ثالث اعمال گردد، وارد نمی سازد.

فرصت را مغتنم شمرده احترامات فائقه خود را به وزارت امور خارجه و مشترک المنافع کشور پادشاهی بریتانیای کبیر و ایرلند شمالی را تجدید می نماید.

لندن، ۷ مرداد ۱۳۹۸



*این متن جدید یادداشت بدلیل نیاز به اصلاح، دوباره صادر و ارسال شده است. متن قبلی از اعتبار ساقط و کان لم یکن تلقی میشود.

اداره ایران و عراق

وزارت امور خارجه و مشترک المنافع کشور پادشاهی بریتانیای کبیر و ایرلند شمالی

Unofficial Translation

In the Name of the Almighty

Note Verbal*

No: 2181-98041798

The Embassy of the Islamic Republic of Iran in London presents its compliments to the Foreign and Commonwealth Office and pursuant to the meeting with Mr. Fabian Picardo, Chief Minister of Gibraltar and Mr. Richard Moore, Political Director at the FCO has the honour to inform:

The Islamic Republic of Iran strongly condemns the illegal detention of Super-tanker Grace 1, containing Iranian oil, and urges its prompt release.

As we have already announced in public, Grace1 super tanker was not destined to an EU sanctioned entity. It remains the case. This is without prejudice to the generally recognized legal position that the EU sanctions cannot be applied on third parties.

The Embassy avails itself of this opportunity to renew to the Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland the assurances of its highest consideration.

London, 29 July 2019

*This new version of the Note Verbal has been reissued for technical reasons. The previous version of the NV is therefore considered null and void.

**Iran-Iraq Department
Foreign and Commonwealth Office
King Charles Street London,
SW1A 2AH**



سفارت جمهوری اسلامی ایران لندن

باسمه تعالی

شماره: ۲۱۸۱-۹۸۰۵۱۸۰۲

یادداشت

سفارت جمهوری اسلامی ایران در لندن با اظهار تعارفات خود به وزارت امور خارجه و مشترک المنافع کشور پادشاهی بریتانیای کبیر و ایرلند شمالی، احتراماً تقاضا می نماید یادداشت ارسال شده از سوی این سفارت به وزارت خارجه بریتانیا در تاریخ ۷ مرداد ۱۳۹۸ پیرامون نفتکش گریس ۱ به سر وزیر جبل الطارق منعکس و بر همین اساس درخواست گردد که مختصات آن کشتی که مبنای توقیف غیرقانونی آن بوده است، باطل اعلام گردد.

فرصت را مغتنم شمرده احترامات فائقه خود را به وزارت امور خارجه و مشترک المنافع کشور پادشاهی بریتانیای کبیر و ایرلند شمالی را تجدید می نماید.

لندن، ۱۴ مرداد ۱۳۹۸



اداره ایران و عراق

وزارت امور خارجه و مشترک المنافع کشور پادشاهی بریتانیای کبیر و ایرلند شمالی

In the Name of the Almighty

Note Verbal

No: 2181-98051802

The Embassy of the Islamic Republic of Iran in London presents its compliments to the Foreign and Commonwealth Office and has the honour to request that the attached NV, already submitted the FCO on 29th July 2019, would be transmitted to the Gibraltar CM and accordingly request the CM that the specifications of the Grace 1 tanker, which has been the basis of its seizure, be revoked.

The Embassy avails itself of this opportunity to renew to the Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland the assurances of its highest consideration.

London, 05 August 2019

**Iran-Iraq Department
Foreign and Commonwealth Office
King Charles Street London,
SW1A 2AH**

Dated 15 August, 2019.

F R PICARDO,
Chief Minister.